



Generator Site Access Permit Enforcement Policy

DRAFT FOR COMMENT

PREPARED BY

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UTAH DEPARTMENT OF ENVIRONMENTAL
QUALITY**

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General Statement of Policy and Procedure For DRC Generator Site Access Enforcement Actions

- ☐ I. Introduction and Purpose
- ☐ II. Statutory Authority and Procedural Framework
- ☐ III. Severity of Violations
- ☐ IV. Enforcement Actions
 - A. Notification Procedures
 - B. Notice of Violation
 - C. Civil Penalty
 - D. Penalty Assessment

APPENDIX A: Point Values Assessment Table and Enforcement Examples

I. Introduction and Purpose

The purpose of the Division of Radiation Control (DRC) Generator Site Access (GSA) enforcement policy is to support the DRC's overall safety mission in protecting the public and the environment from undue hazards and their associated risks through the uniform application of enforcement action as specified.

II. Statutory Authority and Procedural Framework

The procedures set forth in R313-26 (Generator Site Access Requirements for Accessing Utah Radioactive Waste Disposal Facilities) enables the DRC to exercise its enforcement authority. Procedures found in R313-14-15 (Enforcement Actions) prescribes civil penalties.

III. Severity of Violations

Violations/Findings are assigned a point value from 10 to 525 points. Point assessment is based on Appendix A of this document. In general, violations/findings are meant to address conditions with significant high potential impact as well as cases of minor concern that, if left uncorrected, could lead to more serious problems.

IV. Enforcement Actions

This section describes the enforcement sanctions available to the DRC and specifies the conditions under which each may be used. Enforcement procedures begin with administrative actions that include telephone notification, and may include follow up written notification, Confirmatory Action Letters and Demands for Information. Enforcement actions can escalate to Notices of Violation, orders of various types, the imposition of civil penalties and/or suspension or revocation of site access permits. When selecting the enforcement sanctions or administrative actions, the DRC will consult the provisions of R313-14, Violations and Escalated Enforcement.

When a violation of DRC requirements is identified, enforcement action is taken. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. For the vast majority of violations, a Notice of Violation is the normal action. However, circumstances regarding the violation findings may warrant discretion being exercised such that the DRC refrains from issuing a Notice of Violation or other enforcement action.

A. Notification Procedures

Once a potential violation, noncompliant issue or unsafe condition is noted by the inspector, the GSA permittee will be notified as specified below. The progression of notification procedures is directly related to the severity of a potential violation and other relevant circumstances surrounding the event,

and are assessed by the severity level point system explained later in this document. Notification¹ of GSA permittees that access requirements have been violated will be done using the following procedures:

- A - Telephone call and written Notice of Deficiency
 - B - Notice of Violation (With or without an Imposition of Civil Penalty)
 - C - Suspension Order (temporary)
 - D - Revocation Order (permanent).
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- 1) The first level of notification of a deficiency to a GSA permittee will be by telephone followed by a written Notice of Deficiency (NOD) to the shipper/generator regarding unsafe and/or noncompliant issues. This level of notification is for items of least significance
 - 2) The second level of notification of deficiency to a GSA permittee will include telephone notification followed by a written Notice of Violation (NOV) with the possibility of a Imposition of Civil Penalty. Deficiencies of greater significance or repeat violations that have been identified by the DRC in the past may fall into this category of notification.
 - 3) The third level of notification of deficiency will include notification by telephone followed by a Notice of Violation that includes a temporary Suspension Order and may include Imposition of Civil penalty. Continued repeat violations, and violations of significant concern to the DRC may fall into this category.
 - 4) The forth level of notification includes, notification by telephone, a written NOV, and a Permanent Revocation to access disposal facilities in the State of Utah. The Executive Secretary may also impose a civil penalty.

B. Notice of Violation

A Notice of Violation is a written notice setting forth one or more violations of a legally binding requirement. The Notice of Violation normally requires the recipient to provide a written statement describing (1) the reasons for the violation or, if contested, the basis for disputing the violation; (2) corrective steps that have been taken and the results achieved; (3) corrective steps that will be taken to prevent recurrence; and (4) the date when full compliance will be achieved. The Executive Secretary of the Utah Radiation Control Board (URCB) may waive all or portions of a written response to the extent relevant information has already been provided to the DRC in writing or documented in a DRC inspection report.

C. Civil Penalty

A civil penalty is a monetary penalty that may be imposed for violation of (1) certain specified permit provisions of the Administrative Rules or orders; or (2) any requirement for which a permit may be

¹Telephone Call to Shipper/Generator regarding Unsafe and/or Noncompliant Issue.

In all circumstances, the DRC staff will notify the shipper/generator by telephone call of any unsafe or noncompliant issue. The shipper/generator may choose to involve the Envirocare staff in the telephone call but should indicate such at the time the call is received so that the generator/shipper may arrange such a call at a later time. A warning Letter of Deficiency documenting the contents of the phone conversation will be sent to the generator/shipper.

revoked.

Civil penalties may be imposed up to \$5,000.00 per violation and may be escalated for repeat or duplicate violations.

Civil penalties are used to encourage prompt identification and prompt and comprehensive correction of violations, to emphasize compliance in a manner that deters future violations, and to serve to focus permittees' attention on violations of significant regulatory concern.

D. Penalty Assessment

The DRC will generally base Notice of Violation and the Imposition Orders on evaluation of the points assessed against a generator during any single shipping event or over the course of generator shipping campaigns. Typical penalties will generally follow the assessment criteria shown below in Table 1. The structure of this table generally takes into account the gravity of the violation as a primary consideration.

Aggregation of Violation/Finding Point Value Total

In general, point totals are based on each occurrence of a problem in any given shipment. For example, a truck shipment carrying 55 gallon drums of waste; the inspector found two drums not labeled and inadequate bracing. The point total would be 125 points for inadequate bracing and 20 points (10 points per drum) for failing to label, for a total of 145 points.

Repetitive Violations

The general standard for increasing a baseline proposed penalty on the basis of repetitive/same item violations is as follows:

A repeat violation of the **same item** within a 12 month or last three shipment period, whichever is greater, will result in the points for that violation being increased by factor of 5.

A second repeat violation of the **same item** within a 12 month period will result in a point valuation for that violation being increased by factor of 10.

<u>Point Value Totals</u>	<u>TABLE 1</u> <u>Action by DRC</u>
0 - 100	A
101-500	A+B
> 500	A+B and C or D

- A - Telephone call and Letter of Deficiency to shipper/generator regarding unsafe and/or noncompliant issue.
- B - Notice of Violation. (May include Imposition of Civil Penalty upon discretion of Executive Secretary)
- C - Suspension of Order (Temporary)
- D - Revocation Order (permanent).

Appendix A: Point Value Assessment Table and Enforcement Examples

This appendix lists frequently cited violations to be used as examples in determining the appropriate point value assessment for a given violation. Each infraction is assigned a numerical value, shown as points. The points range in degree of significance with 10 points indicating the lowest degree and 525 points for the most significant infraction. The cumulative point total will be used to guide state enforcement action against violators.

Point Value Assessment Table Frequently Cited Violations

Penalty Guidelines

Points

Shipping Papers:

No Uniform Waste Manifest prepared for shipment	125
Failure of Uniform Waste Manifest to have date and signature of each person representing each subsequent carrier	50
Failure to execute the required shipper's certification (signature)	25
Failure to list name, address, phone number or generator/shipper information on manifest	25
Failure to include a proper shipping name or using an incorrect proper shipping name	25
Failure to include a hazard class/division number or use an incorrect number	25
Failure to include an identification number or use an incorrect number	25
Failure to name each radionuclide contained in listed in 173.435	25
Failure to include the total quantity of HM covered by the shipping description	25
Failure to use the letters "RQ" in the shipping description to identify hazardous substances	25
Failure to list an exemption number in association with the shipping description	25
Failure to provide an emergency contact number or provide a non-working number	50
Failure to have an emergency contact number monitored while waste is in transportation	50
LTD QTY must be indicated on manifest for shipments of limited quantities	25
Failure to include a notice for excepted packages containing Class 7 material (173.422)	25
Failure to describe the physical and chemical form of the material	25
Failure to list the activity contained in each package	25
Failure to indicate the category of label (White I, Yellow II, Yellow III) , transport index, and/or group notation for LSA or SCO material	25
Failure to provide exclusive use instructions	25

Marking & Labeling:

Failure to mark each radioactive package with a gross mass greater than 110 pounds	25
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Point Value Assessment Table Frequently Cited Violations

Penalty Guidelines

	Points
Failure to mark TYPE A or TYPE B packages of radioactive material	50
Failure to mark excepted packages for limited quantities of class 7 materials "Radioactive"	25
Failure to mark non-bulk packages of LSA , SCO, or "RQ"	25
Failure to label each package with Class A, B, or C (minimum of ½" letters in a contrasting color)	10
Failure to apply Class A, B, or C labels within 6" of DOT markings	10
Failure to mark non-bulk packages of liquid HM with orientation marks	10
Failure to mark the proper shipping name on a package or incorrect shipping name (except LSA/SCO)	50
Failure to mark the identification number on package or incorrect ID number (except LSA/SCO)	25
Failure to put Hazardous label on package (per package)	25
Placing a label on a package that understates the proper label category (White I, Yellow II, Yellow III)	50
Placing a label that fails to contain, or has erroneous entries for the name of the radionuclide(s), activity, and transport index	50
Placing a label that represents a hazard other than the hazard presented by the HM in the package	50
Placing a label on a package that does not contain a hazardous material	25
Failure to provide the appropriate class or division number on a label	25

Placarding:

Missing placards (each)	15
Obscured, torn, or damaged placards (each)	10
Placard not square on point (each)	10
Color incorrect (faded)(each)	10

Package:

Package breach (no spilled material) fail to use strong tight package	125
Package breach in transit to the facility - results in contamination that can be properly remedied with no impact to human health or the environment	250
Package breach in transit to the facility - results in contamination that impacts human health or the environment	525
Multiple packages with the same package ID number (exclusive package ID required , per package)	20
Package does not correlate to manifest	25
Package on manifest, but not on shipment	25

Point Value Assessment Table Frequently Cited Violations

Penalty Guidelines

	Points
Packages in a transport vehicle exceeds a TI of more than 50 (exclusive use shipments are excepted)	125
Packages containing Yellow II, or III not provided adequate separation	50

Contamination:

On vehicle, railcar, or package > DOT limit (all shipments)	200
Loose radioactive material in conveyance	125

Load Bracing:

No bracing provided	200
Inadequate/failed bracing,	125
Cask tie-down not torqued (per device)	25
Cask lid not torqued	25
Loosening , failed, or unintentional release of closing devices	125

Radiation Levels:

Excess DOT radiation levels (> 20% over limit) for cab, surface, plane, or at 2 meters from plane	200
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Miscellaneous

Unauthorized liquids in waste shipment - results in no contamination	125
Unauthorized liquids in waste - results in contamination that can be properly remedied with no impact to human health or the environment	250
Unauthorized liquids in waste shipment - results in contamination that impacts human health or the environment	525
Mischaracterization of the waste shipment by the generator/shipper (e.g. classification error, Class A, B, or C low-level radioactive waste, mixed waste, etc.) That does not results in improper disposal	125
Mischaracterization of the waste shipment by the generator/shipper (e.g. classification error, Class A, B, or C low-level radioactive waste, mixed waste, etc.) That results in improper disposal	525
Other noncompliance activities not specifically covered by this chart	Determined by the Executive Secretary